

AMENDED IN SENATE MAY 3, 2006  
AMENDED IN SENATE APRIL 17, 2006  
AMENDED IN SENATE MARCH 29, 2006  
AMENDED IN SENATE MARCH 27, 2006

**SENATE BILL**

**No. 1627**

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**Introduced by Senator Kehoe**

February 24, 2006

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An act to amend Sections 65928 and 65950 of, and to add Sections 65850.6 and 65964 to, the Government Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1627, as amended, Kehoe. Wireless telecommunication facilities.

The Planning and Zoning Law authorizes the legislative body of any county or city to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, and open space.

This bill would require a city, including a charter city, or county to administratively approve an application to collocate a wireless telecommunications facility, as defined, through the issuance of a building permit or a nondiscretionary permit, as specified.

~~The Permit Streamlining Act requires a public agency that is the lead agency for a development project to approve or disapprove a development project within a specified number of days from the date of certification by the lead agency of an environmental impact report, if the report is prepared pursuant to specified provisions.~~

~~This bill would require a lead agency to approve or disapprove a development project that is a structure primarily designed to support a wireless telecommunications facility, within 90 days from the date of certification by the lead agency of the environmental impact report, if certain conditions are met.~~

~~The act~~ *The Permit Streamlining Act* defines the term “development project” to include projects involving the issuance of a permit for construction or reconstruction but not a permit to operate.

This bill would prohibit a city or county from taking certain actions as a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications facility, and would specify that a development project for a wireless telecommunications facility is not subject to a permit to operate.

By imposing new duties on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65850.6 is added to the Government  
2 Code, to read:  
3 65850.6. (a) ~~A city, including a charter city, or county shall~~  
4 ~~administratively approve an application to collocate a wireless~~  
5 ~~telecommunications facility through the issuance of a building~~  
6 ~~permit or a nondiscretionary permit issued by the planning~~  
7 ~~department. Review of the application shall be limited to the~~  
8 ~~building official's review of whether it meets all health and~~  
9 ~~safety requirements of local, state, and federal law. With respect~~  
10 ~~to the consideration of the environmental effects of radio~~  
11 ~~frequency emissions, the city's or the county's review shall be~~

1 ~~limited to that authorized by Section 332(c)(7) of Title 47 of the~~  
2 ~~United States Code.~~ *collocation facility shall be a permitted use*  
3 *not subject to a city or county discretionary permit if it satisfies*  
4 *the following requirements:*

5 *(1) The collocation facility is consistent with requirements for*  
6 *the wireless telecommunications collocation facility pursuant to*  
7 *subdivision (b) on which the collocation facility is proposed.*

8 *(2) The wireless telecommunications collocation facility on*  
9 *which the collocation facility is proposed was subject to a*  
10 *discretionary permit by the city or county and an environmental*  
11 *impact report was certified, or a negative declaration or*  
12 *mitigated negative declaration was adopted for the wireless*  
13 *telecommunications collocation facility in compliance with the*  
14 *California Environmental Quality Act (Division 13 (commencing*  
15 *with Section 21000) of the Public Resources Code), the*  
16 *requirements of Section 21166 do not apply, and the collocation*  
17 *facility incorporates required mitigation measures specified in*  
18 *that environmental impact report, negative declaration, or*  
19 *mitigated negative declaration.*

20 *(b) A wireless telecommunications collocation facility, where*  
21 *a subsequent collocation facility is a permitted use not subject to*  
22 *a city or county discretionary permit pursuant to subdivision (a),*  
23 *shall be subject to a city or county discretionary permit and shall*  
24 *comply with all of the following:*

25 *(1) City or county requirements for a wireless*  
26 *telecommunications collocation facility that specifies types of*  
27 *wireless telecommunications facilities that are allowed to include*  
28 *a collocation facility, or types of wireless telecommunications*  
29 *facilities that are allowed to include certain types of collocation*  
30 *facilities; height, location, bulk, and size of the wireless*  
31 *telecommunications collocation facility; percentage of the*  
32 *wireless telecommunications collocation facility that may be*  
33 *occupied by collocation facilities; and aesthetic or design*  
34 *requirements for the wireless telecommunications collocation*  
35 *facility.*

36 *(2) City or county requirements for a proposed collocation*  
37 *facility, including any types of collocation facilities that may be*  
38 *allowed on a wireless telecommunications collocation facility;*  
39 *height, location, bulk, and size of allowed collocation facilities;*  
40 *and aesthetic or design requirements for a collocation facility.*

1 (3) *State and local requirements, including the general plan,*  
2 *any applicable community plan or specific plan, and zoning*  
3 *ordinance.*

4 (4) *The California Environmental Quality Act (Division 13*  
5 *(commencing with Section 21000) of the Public Resources Code)*  
6 *through certification of an environmental impact report, or*  
7 *adoption of a negative declaration or mitigated negative*  
8 *declaration.*

9 (c) *The city or county shall hold at least one public hearing on*  
10 *the discretionary permit required pursuant to subdivision (b) and*  
11 *notice shall be given pursuant to Section 65091, unless otherwise*  
12 *required by this division.*

13 ~~(b)~~

14 (d) For purposes of this section, the following definitions  
15 apply:

16 (1) ~~“Collocation”~~ *“Collocation facility” means the placement*  
17 *or installation of wireless facilities, including antennas, and*  
18 *related equipment, on existing structures such as towers,*  
19 *buildings, utility poles, and water tanks upon which wireless*  
20 *telecommunications facilities and equipment already exist.*  
21 ~~Collocation does not include expanding the highest point of the~~  
22 ~~existing structure by more than 20 percent or expanding the~~  
23 ~~foundation of the structure beyond the boundaries of the original~~  
24 ~~project approved by the city or county. a wireless~~  
25 ~~telecommunications collocation facility.~~

26 (2) *“Wireless telecommunications facility” means equipment*  
27 *and network components such as antennas, towers, utility poles,*  
28 *transmitters, base stations, and emergency power systems that are*  
29 *integral to providing wireless telecommunications services.*

30 (3) *“Wireless telecommunications collocation facility” means*  
31 *a wireless telecommunications facility that includes collocation*  
32 *facilities.*

33 ~~(e)~~

34 (e) ~~The Legislature finds and declares that the collocation of~~  
35 ~~wireless telecommunications facilities a collocation facility, as~~  
36 ~~defined in this section, has a significant economic impact in~~  
37 ~~California and is not a municipal affair as that term is used in~~  
38 ~~Section 5 of Article XI of the California Constitution, but is a~~  
39 ~~matter of statewide concern.~~

1     ~~SEC. 2. Section 65928 of the Government Code is amended~~  
2     ~~to read:~~

3     ~~65928. “Development project” means any project undertaken~~  
4     ~~for the purpose of development. “Development project” includes~~  
5     ~~a project involving the issuance of a permit for construction or~~  
6     ~~reconstruction but not a permit to operate. A development project~~  
7     ~~for a wireless telecommunications facility, as defined in Section~~  
8     ~~65850.6, shall not be subject to a permit to operate.~~  
9     ~~“Development project” does not include any ministerial projects~~  
10    ~~proposed to be carried out or approved by public agencies.~~

11    ~~SEC. 3. Section 65950 of the Government Code is amended~~  
12    ~~to read:~~

13    ~~65950. (a) Any public agency that is the lead agency for a~~  
14    ~~development project shall approve or disapprove the project~~  
15    ~~within whichever of the following periods is applicable:~~

16    ~~(1) One hundred eighty days from the date of certification by~~  
17    ~~the lead agency of the environmental impact report, if an~~  
18    ~~environmental impact report is prepared pursuant to Section~~  
19    ~~21100 or 21151 of the Public Resources Code for the~~  
20    ~~development project.~~

21    ~~(2) Ninety days from the date of certification by the lead~~  
22    ~~agency of the environmental impact report, if an environmental~~  
23    ~~impact report is prepared pursuant to Section 21100 or 21151 of~~  
24    ~~the Public Resources Code for the development project and all of~~  
25    ~~the following conditions are met:~~

26    ~~(A) The development project is affordable to very low or~~  
27    ~~low-income households, as defined by Sections 50105 and~~  
28    ~~50079.5 of the Health and Safety Code, respectively.~~

29    ~~(B) Prior to the application being deemed complete for the~~  
30    ~~development project pursuant to Article 3 (commencing with~~  
31    ~~Section 65940), the lead agency received written notice from the~~  
32    ~~project applicant that an application has been made or will be~~  
33    ~~made for an allocation or commitment of financing, tax credits,~~  
34    ~~bond authority, or other financial assistance from a public agency~~  
35    ~~or federal agency, and the notice specifies the financial assistance~~  
36    ~~that has been applied for, or will be applied for, and the deadline~~  
37    ~~for application for that assistance, the requirement that one of the~~  
38    ~~approvals of the development project by the lead agency is a~~  
39    ~~prerequisite to the application for or approval of the application~~  
40    ~~for financial assistance, and that the financial assistance is~~

1 necessary for the project to be affordable, as required pursuant to  
2 subparagraph (A):

3 ~~(C) There is confirmation that the application has been made~~  
4 ~~to the public agency or federal agency prior to certification of the~~  
5 ~~environmental impact report.~~

6 ~~(3) Ninety days from the date of certification by the lead~~  
7 ~~agency of the environmental impact report, if an environmental~~  
8 ~~impact report is prepared pursuant to Section 21100 or 21151 of~~  
9 ~~the Public Resources Code for a development project that is a~~  
10 ~~structure primarily designed to support a wireless~~  
11 ~~telecommunications facility, as defined in Section 65850.6, and~~  
12 ~~there is confirmation that the application has been made to the~~  
13 ~~city or county prior to the certification of the environmental~~  
14 ~~impact report.~~

15 ~~(4) Sixty days from the date of adoption by the lead agency of~~  
16 ~~the negative declaration, if a negative declaration is completed~~  
17 ~~and adopted for the development project.~~

18 ~~(5) Sixty days from the determination by the lead agency that~~  
19 ~~the project is exempt from the California Environmental Quality~~  
20 ~~Act (Division 13 (commencing with Section 21000) of the Public~~  
21 ~~Resources Code), if the project is exempt from the California~~  
22 ~~Environmental Quality Act.~~

23 ~~(b) Nothing in this section precludes a project applicant and a~~  
24 ~~public agency from mutually agreeing in writing to an extension~~  
25 ~~of any time limit provided by this section pursuant to Section~~  
26 ~~65957.~~

27 ~~(e) For purposes of this section, “lead agency” and “negative~~  
28 ~~declaration” shall have the same meaning as those terms are~~  
29 ~~defined in Sections 21067 and 21064 of the Public Resources~~  
30 ~~Code, respectively.~~

31 ~~SEC. 4.~~

32 *SEC. 2.* Section 65964 is added to the Government Code, to  
33 read:

34 65964. As a condition of approval of an application for a  
35 permit for construction or reconstruction for a development  
36 project for a wireless telecommunications facility, as defined in  
37 Section 65850.6, a city or county shall not do any of the  
38 following:

39 (a) Require an escrow deposit for removal of a wireless  
40 telecommunications facility or any component thereof.

1 (b) Unreasonably limit the duration of any permit for a  
2 wireless telecommunications facility. Limits of less than 10 years  
3 are presumed to be unreasonable absent compelling land use or  
4 public safety reasons.

5 (c) Require that all wireless telecommunications facilities be  
6 limited to certain geographic areas or sites owned by particular  
7 parties within the jurisdiction of the city or county.

8 *SEC. 3. It is the intent of the Legislature that a permit to*  
9 *operate a wireless telecommunications facility is not intended to*  
10 *preclude compliance with the Permit Streamlining Act (Chapter*  
11 *4.5 (commencing with Section 65920) of Division 1 of Title 7 of*  
12 *the Government Code).*

13 ~~SEC. 5.~~

14 *SEC. 4.* If the Commission on State Mandates determines that  
15 this act contains costs mandated by the state, reimbursement to  
16 local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.